

87-328-X

#212

N/S of McCurley Ave. at Intersection of Oak Ct.
(1312 McCurley Ave.)

1st Elec. Dist.

12/22/86

Special Exception - filing fee \$100.00 - Sean B. St. Martin, et ux

12/22/86

Hearing set for 2/10/87, at ~~11:00 a.m.~~ 4:00 p.m.

2/10/87

Advertising and Posting - \$60.10

2/12/87

Ordered by the Zoning Commissioner that the Petition for Special Exception for a professional office in a residence is DENIED and if and when the Petitioners are able to provide on-site parking, they shall be permitted to refile a Petition for Special Exception.

IN RE: PETITION SPECIAL EXCEPTION	*	BEFORE THE
N/S of McCurley Avenue at	*	ZONING COMMISSIONER
the intersection of Oak Court	*	OF BALTIMORE COUNTY
(1312 McCurley Avenue) -	*	
1st Election District	*	Case No. 87-328-X
Sean B. St. Martin, et ux,	*	
Petitioners	*	

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special exception for a professional office in their residence, as more particularly described on Petitioners' Exhibit 1.

The Petitioners appeared and testified. Harold Spencer and Leroy Jackson, residents of the neighborhood, testified in opposition. Numerous other residents also appeared in opposition. See Protestants' Exhibits 1a, 1b, 1c, and 1d.

Testimony indicated that the subject property, zoned D.R.5.5, is located on the corner of McCurley Avenue and Oak Court. The Petitioners have lived in their home for two years and propose an office for Mrs. St. Martin, who is a certified public accountant (CPA). The Petitioners, both of whom are CPA's, would like to begin their family, and Mrs. St. Martin would like to initiate a small private practice from her home which would enable her to also care for her family. The projected practice would be small, i.e., no more than seven clients per week coming to the house and no secretarial or other professional help. Mr. St. Martin is employed full-time and would not join his wife in the home-centered practice. The hours of operation would be from 9:00 a.m. to 5:00 p.m., with a rare client coming to the house in the evening or on weekends. The total floor area of the proposed office would be 7% of the total floor area of the house. In fact, most of Mrs. St. Martin's projected

business would be away from the site, and after tax season, there would probably be little or no traffic. The Petitioners do not have any on-site parking.

The neighbors are all opposed. They fear creeping commercialism and the alteration of their long-existing residential community.

The Petitioners seek relief from Section 1B01.1.C.9.B, pursuant to Section 502.1, Baltimore County Zoning Regulations (BCZR).

It is clear that the BCZR permits the use requested by the Petitioners in a D.R.5.5 Zone by special exception. It is equally clear that the proposed use would be detrimental to the primary uses in the vicinity. It must be determined whether the conditions as delineated in Section 502.1 are satisfied by the Petitioners.

After reviewing all of the testimony and evidence presented, it appears that the special exception should not be granted.

The Petitioners had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1. In fact, the Petitioners have not shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances show that the proposed use at the particular location described by Petitioners' Exhibit 1 would have an adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will be detrimental to the health, safety, or general welfare of the locality and will tend to create congestion in roads, streets, or alleys therein. It will be inconsistent with the purposes of the

property's zoning classification and inconsistent with the spirit and intent of the BCZR.

Pursuant to the advertisement, posting of property, and public hearing held, and it appearing that by reason of the requirements of Section 502.1 not having been met and the health, safety, and general welfare of the community being adversely affected, the special exception should not be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 13th day of February, 1987, that the Petition for Special Exception for a professional office in a residence be and is hereby DENIED. If and when the Petitioners are able to provide on-site parking, they shall be permitted to refile a Petition for Special Exception.



Zoning Commissioner of
Baltimore County

AJ/srl

cc: Mr. & Mrs. Sean B. St. Martin

Mr. Harold Spencer

Mr. Leroy Jackson

People's Counsel